

Declaration Guidance Version 3 – Key Points and Answers to Frequently Asked Questions

The FSR recently published **Guidance: Declarations of Compliance and Non-Compliance with the Code of Practice version 2 FSR-GUI-0001 Issue 3**.

THE FORM OF DECLARATIONS

- The guidance ‘**outlines an approach to declaring compliance or non-compliance to the Code** and is intended to assist the Criminal Justice System (CJS) in identifying the risks in the provision of forensic science evidence and in assessing the admissibility of such evidence.’
- The declaration accurately reflects the **combined compliance status** of the activities within the report.
- Only **one declaration and mitigation table** should be included for each report.
- All practitioners reporting on FSAs requiring compliance with Part B shall **declare compliance with the Code in reports in the terms stated in the Guidance, or in terms substantially the same** (except in SFR 1 - where an organisational declaration is sufficient).
- **In statements where FSAs are not undertaken there is no requirement for a declaration of compliance or non-compliance to the Code.** An exception to this is within FSA DIG 100 which is referred to under section 97.2 of the Code.

LOCATION

- The Code requires that a practitioner undertaking a Forensic Science Activity (FSA) **that is subject to the Code** shall make a declaration of compliance or non-compliance with the Code in **all statements/reports and covering all FSAs referenced in that statement/report.**

- A practitioner is considered to be undertaking an FSA if **any aspect of the FSA is being undertaken in England and Wales** and a declaration is required whether the analysis is **for the prosecution or the defence.**"
- If an FSA is undertaken in England and Wales for a jurisdiction which is outside of England and Wales, it is not an FSA for the purposes of the Forensic Science Regulator Act 2021
- If an activity is undertaken outside of England and Wales for a jurisdiction in England and Wales, the Act also **does not apply.** Reports should declare that the Code does not apply in these circumstances.
- If part of the forensic science activity was undertaken outside of England and Wales for investigation and detection in England and Wales, then the Code **does not apply to the part** undertaken outside of England and Wales. **The commissioning party is responsible** for the quality of work undertaken outside of England and Wales.

THE PRACTITIONER

- The declaration is **a personal declaration** from the reporting officer solely about the work **they have undertaken.**
- It is **the practitioner's responsibility** to be able to account for the content of their reports including declarations and any corresponding mitigations in court.
- To declare compliance, a practitioner **must** have complied with the Code for **all aspects of the work** being reported on.

MITIGATIONS

- **Where non-compliance is declared, mitigations should be provided** outlining the basis on which the evidence can be relied upon in the absence of compliance with the Code, specifically to the **five key quality considerations** outlined in the Code:
 1. **Competence of the practitioners involved in the work.**

2. Validity of the method employed.
 3. Documentation of the method employed.
 4. Suitability of the equipment employed (including the approach to maintenance and calibration).
 5. Suitability of the environment in which the work is undertaken.
- Practitioners should **take a pragmatic approach and aim for clarity** when detailing mitigations to non-compliance.
 - If there is a **significant non-conformance which impacts the reliability of the report**, this should be referenced as part of the **overall assessment of risk** within the mitigations table.
 - The mitigation table requires detail of **ideally up to three key actions taken that are considered most likely to mitigate the risk** associated with non-compliance with the Code and asks the practitioner to confirm that they are content that these do not impact the reliability of the evidence provided.
 - The ‘other comments’ box allows additional comments to be added on the actions take to mitigate risk as well as any other additional information to provide clarity to the court.
 - **A blank mitigation table is included in Annex A of the guidance.** The SFR templates will require modification and drafts have been prepared for SFR Board consideration.

‘FURTHER TO’ STATEMENTS

- In ‘further to’ statements where an FSA or part of an FSA has been undertaken a declaration of compliance or non-compliance **is required**.

FSAS WITH A TRANSITION PERIOD

- **FSA - DTN 102 - Toxicology: analysis for drugs in relation to s5A of the Road Traffic Act 1988**
 - Compliance to the updated FSA-specific requirements is required from 1st April 2026.

- UKAS will cease using Lab 51 in their assessment of this FSA specific requirements for the Code. If the assessment uses Lab 51, UKAS will remove Code version 2 from the schedule of accreditation. Organisations will declare non-compliance with Code version 2 from 6 Apr 2026 even if they hold ISO/IEC 17025 accreditation.
- Organisations that are non-compliant should refer themselves to the FSR providing a rationale for the non-compliance and an explanation of how risks are being managed.
- **FSA - MTP 101 - Friction ridge detail: comparison (Code version 2 section 57.2)**
 - Compliance with the Code is required, demonstrated by having accreditation to ISO/IEC 17025:2017, with the Code and comparison of Friction Ridge Detail on the accreditation schedule. Code version 2 allows for a 12-month delay from the time the Code comes into force for organisations to demonstrate compliance with the redesigned sub-activities.
 - From 2 October 2026 the sub-activities that the organisation undertakes of this FSA listed in section 57.3.1 are required to be reflected on the schedule of accreditation.
 - Organisations can transition to demonstrate compliance with the new requirements at different times during this period and do not need to wait until Oct to be able to declare compliance with the FSA and FSA specific requirements. Non-compliant organisations for any of the four sub-activities should refer themselves to the FSR providing a rationale for the non-compliance and an explanation of how risks are being managed.
- **INC100 is not included in the Guidance.**